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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: S-3209.2/14 2nd draft

ATTY/TYPIST: BP:akl

BRIEF DESCRIPTION: Concerning transportation project delivery.

1 AN ACT Relating to transportation project delivery; amending RCW  
2 47.20.785; adding new sections to chapter 47.20 RCW; creating a new  
3 section; and providing a contingent expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.20 RCW  
6 to read as follows:

7 (1) The department must develop a process for awarding  
8 competitively bid highway and ferry construction contracts for projects  
9 that may be constructed using the general contractor/construction  
10 manager procedure. As used in this chapter, "general  
11 contractor/construction manager procedure" means a method of  
12 contracting under which the department contracts with another party for  
13 that party to undertake project team involvement with, among other  
14 things: Design development; constructability reviews; value  
15 engineering; scheduling; estimating; subcontracting services;  
16 establishing a price to complete the contract work; acting as general  
17 contractor; holding all subcontracts; self-performing at least thirty  
18 percent of the work as allowed under the contract with the department;

1 coordinating and managing the construction process; providing general  
2 contractor expertise; and acting as a member of the project team with  
3 the department.

4 (2) The process developed by the department must, at a minimum,  
5 include: The scope of services required under the general  
6 contractor/construction manager procedure; contractor prequalification  
7 requirements; criteria for evaluating technical information and project  
8 costs; and the means used to determine the price to complete the work,  
9 which may include negotiations, contractor selection criteria, and  
10 issue resolution procedures. However, this process must also allow the  
11 department to put the project back out to bid if the department and the  
12 general contractor/construction manager are unable to come to an  
13 agreement on the price of the project.

14 (3) The department may use the general contractor/construction  
15 manager procedure for public works projects when:

16 (a) The project presents significant technical complexities that  
17 are best addressed by a collaborative or team effort between the  
18 department, design professions, and contractor, in which the contractor  
19 will assist in addressing specific project challenges through  
20 preconstruction services;

21 (b) Early contractor input during the design process is expected to  
22 contribute to significant cost savings; or

23 (c) Significant savings in project delivery time would be realized.

24 (4) The department must adopt rules under chapter 34.05 RCW to  
25 implement this section.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.20 RCW  
27 to read as follows:

28 (1) The department must convene an expert review panel to review  
29 the projects identified in the LEAP transportation document referenced  
30 in sections 302 and 304, chapter . . . (Senate Bill No.. . . (S-  
31 3213/14)), Laws of 2013 4th sp. sess. and recommend the best project  
32 delivery method currently available to the department for each project.

33 (2) The expert review panel must provide a report with its project  
34 delivery recommendations to the transportation committees of the  
35 legislature and the governor by July 1, 2014.

36 (3) The expert review panel must be comprised of five members who  
37 are nationally recognized experts in the following project delivery

1 methods: Design-build; general contractor/construction manager; and  
2 traditional design, bid, and build. The expert review panel must be  
3 selected cooperatively by the chairs and ranking members of the senate  
4 and house transportation committees from of a list of seven to ten  
5 proposed candidates provided by the secretary of transportation and the  
6 governor. The chair of the expert review panel must be designated by  
7 the appointing authorities. The expert review panel must serve without  
8 compensation, but must be reimbursed for expenses according to RCW  
9 43.03.050 and 43.03.060. Reimbursement must be paid from within  
10 existing resources of the department. The department must provide all  
11 staff support that the expert review panel requires.

12 (4) The department must utilize the project delivery method  
13 recommended by the expert review panel unless, as declared by the  
14 secretary of transportation, unforeseen circumstances related to market  
15 or economic conditions warrant the utilization of a different delivery  
16 method. Within thirty days of making the decision to utilize a  
17 different project delivery method than that recommended by the expert  
18 review panel, the department must submit a report to the transportation  
19 committees of the legislature and the governor detailing the reasons  
20 that support the department varying from the expert review panel  
21 recommendation.

22 **Sec. 3.** RCW 47.20.785 and 2006 c 37 s 1 are each amended to read  
23 as follows:

24 (1) The department of transportation may use the design-build  
25 procedure for public works projects (~~((over ten million dollars where))~~)  
26 when:

27 (a) The construction activities are highly specialized and a  
28 design-build approach is critical in developing the construction  
29 methodology; or

30 (b) The projects selected provide opportunity for greater  
31 innovation and efficiencies between the designer and the builder; or

32 (c) Significant savings in project delivery time would be realized.

33 (2) To test the applicability of the design-build procedure on  
34 smaller projects and specialty projects, the department may conduct up  
35 to five pilot projects on projects that cost between two and ten  
36 million dollars. The department shall evaluate these pilot projects  
37 with respect to cost, time to complete, efficiencies gained, if any,

1 and other pertinent information to facilitate analysis regarding the  
2 further use of the design-build process on projects of this size. This  
3 subsection expires upon the completion of the five pilot projects  
4 authorized under this subsection.

5 NEW SECTION. **Sec. 4.** (1) The department of transportation must  
6 convene an expert review panel to examine the department's  
7 implementation and use of design-build contracting under RCW 47.20.785.

8 (2) The expert review panel must provide a report detailing any  
9 recommended changes or improvements that the department of  
10 transportation should make to the design-build process in order to  
11 maximize cost and schedule efficiencies and ensure that design risk is  
12 borne by the appropriate party. The report is due to the  
13 transportation committees of the legislature and the governor by July  
14 1, 2014.

15 (3) The expert review panel must be comprised of five members who  
16 are nationally recognized experts in the field of design-build project  
17 delivery. The expert review panel must be selected cooperatively by  
18 the chairs and ranking members of the senate and house transportation  
19 committees from of a list of seven to ten proposed candidates provided  
20 by the secretary of transportation and the governor. The chair of the  
21 expert review panel must be designated by the appointing authorities.  
22 The expert review panel must serve without compensation, but must be  
23 reimbursed for expenses according to RCW 43.03.050 and 43.03.060.  
24 Reimbursement must be paid from within existing resources of the  
25 department of transportation. The department of transportation must  
26 provide all staff support that the expert review panel requires.

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